

FIRST REGULAR SESSION

HOUSE BILL NO. 390

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GARDNER.

0410L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 595.010 and 595.015, RSMo, and to enact in lieu thereof two new sections relating to crime victims' compensation fund claims.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 595.010 and 595.015, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 595.010 and 595.015, to read as follows:

595.010. 1. As used in sections 595.010 to 595.075, unless the context requires otherwise, the following terms shall mean:

(1) "Child", a dependent, unmarried person who is under eighteen years of age and includes a posthumous child, stepchild, or an adopted child;

(2) "Claimant", a victim or a dependent, relative, survivor, or member of the family of a victim eligible for compensation pursuant to sections 595.010 to 595.075, **or a funeral home if the victim's family or next of kin designates it as such under section 595.015;**

(3) "Conservator", a person or corporation appointed by a court to have the care and custody of the estate of a minor or a disabled person, including a limited conservator;

(4) "Counseling", problem-solving and support concerning emotional issues that result from criminal victimization licensed pursuant to section 595.030. Counseling is a confidential service provided either on an individual basis or in a group. Counseling has as a primary purpose to enhance, protect and restore a person's sense of well-being and social functioning after victimization. Counseling does not include victim advocacy services such as crisis telephone counseling, attendance at medical procedures, law enforcement interviews or criminal justice proceedings;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (5) "Crime", an act committed in this state which, if committed by a mentally competent,
18 criminally responsible person who had no legal exemption or defense, would constitute a crime;
19 provided that, such act involves the application of force or violence or the threat of force or
20 violence by the offender upon the victim but shall include the crime of driving while intoxicated,
21 vehicular manslaughter and hit and run; and provided, further, that no act involving the operation
22 of a motor vehicle except driving while intoxicated, vehicular manslaughter and hit and run
23 which results in injury to another shall constitute a crime for the purpose of sections 595.010 to
24 595.075, unless such injury was intentionally inflicted through the use of a motor vehicle. A
25 crime shall also include an act of terrorism, as defined in 18 U.S.C. Section 2331, which has
26 been committed outside of the United States against a resident of Missouri;

27 (6) "Crisis intervention counseling", helping to reduce psychological trauma where
28 victimization occurs;

29 (7) "Department", the department of public safety;

30 (8) "Dependent", mother, father, spouse, spouse's mother, spouse's father, child,
31 grandchild, adopted child, illegitimate child, niece or nephew, who is wholly or partially
32 dependent for support upon, and living with, but shall include children entitled to child support
33 but not living with, the victim at the time of his injury or death due to a crime alleged in a claim
34 pursuant to sections 595.010 to 595.075;

35 (9) "Direct service", providing physical services to a victim of crime including, but not
36 limited to, transportation, funeral arrangements, child care, emergency food, clothing, shelter,
37 notification and information;

38 (10) "Director", the director of public safety of this state or a person designated by him
39 for the purposes of sections 595.010 to 595.075;

40 (11) "Disabled person", one who is unable by reason of any physical or mental condition
41 to receive and evaluate information or to communicate decisions to such an extent that the
42 person lacks ability to manage his financial resources, including a partially disabled person who
43 lacks the ability, in part, to manage his financial resources;

44 (12) "Emergency service", those services provided within thirty days to alleviate the
45 immediate effects of the criminal act or offense, and may include cash grants of not more than
46 one hundred dollars;

47 (13) "Earnings", net income or net wages;

48 (14) "Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild,
49 brother, sister, half brother, half sister, adopted children of parent, or spouse's parents;

50 (15) "Funeral expenses", the expenses of the funeral, burial, cremation or other chosen
51 method of interment, including plot or tomb and other necessary incidents to the disposition of
52 the remains;

53 (16) "Gainful employment", engaging on a regular and continuous basis, up to the date
54 of the incident upon which the claim is based, in a lawful activity from which a person derives
55 a livelihood;

56 (17) "Guardian", one appointed by a court to have the care and custody of the person of
57 a minor or of an incapacitated person, including a limited guardian;

58 (18) "Hit and run", the crime of leaving the scene of a motor vehicle accident as defined
59 in section 577.060;

60 (19) "Incapacitated person", one who is unable by reason of any physical or mental
61 condition to receive and evaluate information or to communicate decisions to such an extent that
62 he lacks capacity to meet essential requirements for food, clothing, shelter, safety or other care
63 such that serious physical injury, illness, or disease is likely to occur, including a partially
64 incapacitated person who lacks the capacity to meet, in part, such essential requirements;

65 (20) "Injured victim", a person:

66 (a) Killed or receiving a personal physical injury in this state as a result of another
67 person's commission of or attempt to commit any crime;

68 (b) Killed or receiving a personal physical injury in this state while in a good faith
69 attempt to assist a person against whom a crime is being perpetrated or attempted;

70 (c) Killed or receiving a personal physical injury in this state while assisting a law
71 enforcement officer in the apprehension of a person who the officer has reason to believe has
72 perpetrated or attempted a crime;

73 (21) "Law enforcement official", a sheriff and his regular deputies, municipal police
74 officer or member of the Missouri state highway patrol and such other persons as may be
75 designated by law as peace officers;

76 (22) "Offender", a person who commits a crime;

77 (23) "Personal physical injury", actual bodily harm only with respect to the victim.
78 Personal physical injury may include mental or nervous shock resulting from the specific
79 incident upon which the claim is based;

80 (24) "Private agency", a not-for-profit corporation, in good standing in this state, which
81 provides services to victims of crime and their dependents;

82 (25) "Public agency", a part of any local or state government organization which
83 provides services to victims of crime;

84 (26) "Relative", the spouse of the victim or a person related to the victim within the third
85 degree of consanguinity or affinity as calculated according to civil law;

86 (27) "Survivor", the spouse, parent, legal guardian, grandparent, sibling or child of the
87 deceased victim of the victim's household at the time of the crime;

88 (28) "Victim", a person who suffers personal physical injury or death as a direct result
89 of a crime, as defined in subdivision (5) of this subsection;

90 (29) "Victim advocacy", assisting the victim of a crime and his dependents to acquire
91 services from existing community resources.

92 2. As used in sections 565.024 and 565.060 and sections 595.010 to 595.075, the term
93 "alcohol-related traffic offense" means those offenses defined by sections 577.001, 577.010, and
94 577.012, and any county or municipal ordinance which prohibits operation of a motor vehicle
95 while under the influence of alcohol.

595.015. 1. The department of public safety shall, pursuant to the provisions of sections
2 595.010 to 595.075, have jurisdiction to determine and award compensation to, or on behalf of,
3 victims of crimes. In making such determinations and awards, the department shall ensure the
4 compensation sought is reasonable and consistent with the limitations described in sections
5 595.010 to 595.075. Additionally, if compensation being sought includes medical expenses, the
6 department shall further ensure that such expenses are medically necessary. The department of
7 public safety may pay directly to the provider of the services compensation for medical or funeral
8 expenses, or expenses for other services as described in section 595.030, incurred by the
9 claimant. The department is not required to provide compensation in any case, nor is it required
10 to award the full amount claimed. The department shall make its award of compensation based
11 upon independent verification obtained during its investigation.

12 2. Such claims shall be made by filing an application for compensation with the
13 department of public safety. The application form shall be furnished by the department and the
14 signature shall be notarized. The application shall include:

15 (1) The name and address of the victim;

16 (2) If the claimant is not the victim, the name and address of the claimant and
17 relationship to the victim, the names and addresses of the victim's dependents, if any, and the
18 extent to which each is so dependent;

19 (3) The date and nature of the crime or attempted crime on which the application for
20 compensation is based;

21 (4) The date and place where, and the law enforcement officials to whom, notification
22 of the crime was given;

23 (5) The nature and extent of the injuries sustained by the victim, the names and addresses
24 of those giving medical and hospital treatment to the victim and whether death resulted;

25 (6) The loss to the claimant or a dependent resulting from the injury or death;

26 (7) The amount of benefits, payments or awards, if any, payable from any source which
27 the claimant or dependent has received or for which the claimant or dependent is eligible as a
28 result of the injury or death;

29 (8) Releases authorizing the surrender to the department of reports, documents and other
30 information relating to the matters specified under this section; and

31 (9) Such other information as the department determines is necessary.

32 3. In addition to the application, the department may require that the claimant submit
33 materials substantiating the facts stated in the application.

34 4. If the department finds that an application does not contain the required information
35 or that the facts stated therein have not been substantiated, it shall notify the claimant in writing
36 of the specific additional items of information or materials required and that the claimant has
37 thirty days from the date of mailing in which to furnish those items to the department. Unless
38 a claimant requests and is granted an extension of time by the department, the department shall
39 reject with prejudice the claim of the claimant for failure to file the additional information or
40 materials within the specified time.

41 5. The claimant may file an amended application or additional substantiating materials
42 to correct inadvertent errors or omissions at any time before the department has completed its
43 consideration of the original application.

44 6. The claimant, victim or dependent shall cooperate with law enforcement officials in
45 the apprehension and prosecution of the offender in order to be eligible, or the department has
46 found that the failure to cooperate was for good cause.

47 7. Any state or local agency, including a prosecuting attorney or law enforcement agency,
48 shall make available without cost to the fund all reports, files and other appropriate information
49 which the department requests in order to make a determination that a claimant is eligible for an
50 award pursuant to sections 595.010 to 595.075.

51 **8. If the victim is deceased, the victim's family or next of kin may sign a notarized**
52 **statement designating the funeral home as a claimant eligible for compensation from the**
53 **crime victims' compensation fund provided such funeral home complies with the provisions**
54 **of this section.**

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